

AWARD NO. 85  
Case No. 85

Organization File No. B16119009  
Carrier File No. 2009-043898

**PUBLIC LAW BOARD NO. 7163**

PARTIES ) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,  
          ) INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
TO )  
      )  
DISPUTE ) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier assigned Assistant Roadmaster C. Evans to perform Maintenance of Way work (track inspection and repairs) between Mile Posts AN 738.3 and AN 902.1 on the Jacksonville Division on February 2, 3, 4, 5, 6, 9, 11, 12, 13, 17, 18, 19, 20, 22, 23, 26, March 2, 3, 4, 6, 8, 9, 10, 13, 16, 17, 18, 20, 22, 23, 24, 25, 26 and 27, 2009.
2. As a consequence of the violation referred to in Part 1 above, Claimant J. McBryde, Jr. shall now be compensated at the respective and applicable track inspector's rate of pay for a total of eight (8) hours at the straight time rate of pay and for one hundred and fifty (150) hours at the time and one-half rate of pay.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

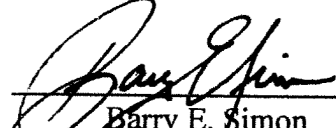
The Organization asserts that the Carrier had a Roadmaster and an Assistant Roadmaster perform track inspection work on the dates of claim. It is evident such work was performed on a track inspector territory that was vacant because the job was up for bid. Claimant was the track

inspector on the adjacent territory and the Organization argues he should have been used to perform this work in lieu of a non-covered management employee. This work, the Organization argues, is reserved to employees covered by the Agreement.

While the Carrier argues that track inspection is performed by various employees and is not reserved exclusively to the Maintenance of Way craft, the record reflects that these inspections were performed to meet FRA requirements. The Board recognizes that other employees, as part of their regular duties, inspect track to some degree. Train service employees, for instance, are required to observe the track ahead of them and report any irregularities. We are satisfied, though, that the performance of FRA required inspections is the work of bargaining unit employees. An email from the Roadmaster confirms that this work was performed.

The fact that this work was performed on a territory that did not have an assigned track inspector at the time does not give the Carrier license to remove the work from the scope of the Agreement. It remained covered work and could be claimed by any appropriate employee.

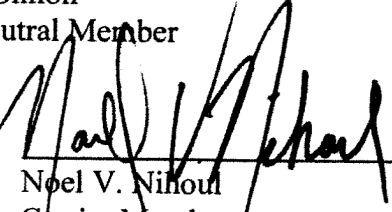
AWARD: Claim sustained. Carrier is directed to comply with this Award within 45 days.

  
Barry E. Simon  
Chairman and Neutral Member

  
Timothy W. Kreke  
Employee Member

April 8, 2011

Dated: March 28, 2011  
Arlington Heights, Illinois

  
Noel V. Nihoul  
Carrier Member